Notification of Contravention of General Condition 22 under Section 94 of the Communications Act 2003

Notice served on Pipex UK Limited and Pipex Internet Limited

This is the non-confidential version. Confidential information has been redacted. Redactions are indicated by ✂

Statement

Issue date: 12 December 2008

Annexes

The explanatory statement is accompanied by 15 Annexes, which are included in a separate binder. These have been redacted for confidentiality purposes.

Evidence in relation to ✂ [Customer 7] - call transcript dated 19 May 2008		A
Evidence in relation to ✂ [Customer 7] - call transcript dated 21 May 2008		B
Evidence in relation to ✂ [Customer 7] - call transcript dated 22 May 2008		C
Evidence in relation to ✂ [Customer 7] - call transcript dated 2 June 2008		D
Evidence in relation to ✂ [Customer 7] - CRMS records		E
Evidence in relation to ✂ [Customer 8]- Call transcript dated 18 April 2008	10	F
Evidence in relation to ✂ [Customer 8]- Call transcript dated 29 April 2008		G
Evidence in relation to ✂ [Customer 8]- Call transcript dated 16 May 2008		HI
Evidence in relation to ✂ [Customer 8]- Call transcript dated 16 May 2008		JK
Evidence in relation to ✂ [Customer 8]- Call transcript dated 28 May 2008		L
Evidence in relation to ✂ [Customer 8] - Call transcript dated 30 May 2008		M
Evidence in relation to ✂ [Customer 8]- CRMS records		N
Evidence in relation to ✂ [Customer 9]- CRMS records	11	
Evidence in relation to ✂ [Customer 10] - CRMS records	12	
Evidence in relation to ✂ [Customer 11]- CRMS records	13	
Evidence in relation to ✂ [Customer 12] - call trascript dated 24 April 2008	14	O
Evidence in relation to ✂ [Customer 12]- CRMS records		PQ
Evidence in relation to ✂ [Customer 13]- CRMS records	15	

Notification to Pipex UK Limited and Pipex Internet Limited of Contravention of General Condition 22 under section 94 of the Communications Act 2003

1.   Section 94 of the Communications Act 2003 ("the Act") allows Ofcom to issue a notification to a person where Ofcom has reasonable grounds for believing that a person is contravening, or has contravened, a condition set under section 45 of the Act.

Determination made by Ofcom

2.   Ofcom hereby determines that there are reasonable grounds for believing that Pipex UK Limited (formerly known as Pipex Homecall Limited), company number 04063120, and Pipex Internet Limited, company number 05306519, (collectively "Pipex"), have contravened General Condition 22 ("GC22") of the General Conditions of Entitlement.[1] Specifically:

(a) Between 25 January 2008 and 25 June 2008 Pipex failed to comply with the Migration Authorisation Code ("MAC") Broadband Migrations Process, as required by GC22.1, specifically by:

   (i) failing to provide some of its customers with MACs within five working days;[2] and/or

   (ii) issuing a cease request when the customer wanted to transfer their broadband service to another communications provider.[3]

3.   The reasons for Ofcom's determination are set out in the explanatory statement accompanying this notification.

General Condition 22

4.   GC22 deals with service migrations. GC22.1 specifies:

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[1] We understand from Tiscali UK Holdings Limited, which now owns both Pipex UK Limited and Pipex Internet Limited, that the customers of the various ISP brands that were part of Pipex Communications plc, including Pipex Internet Limited and Pipex Homecall Limited, are customers of Pipex UK Limited as of 1 December 2008.
[2] As required by paragraph A1.5 in Annex 1 of GC22.
[3] In contravention of paragraph A1.13 in Annex 1 of GC22.

> "*All Communications Providers pursuant to a request by an End-User, a Customer or another Communications Provider to migrate (or where applicable, connect) a Broadband Service, shall:*
>
> *(a) comply with the provisions of the MAC Broadband Migrations Process set out at Annex 1 to this Condition; and*
>
> *(b) where the provisions of the MAC Broadband Migrations Process do not apply to the Communications Provider in relation to the Broadband Service, comply with the provisions referred to in Conditions 22.2.*"

5.   Paragraph A1.1 of the MAC Broadband Migrations Process (the "MAC Process") specifies:

> "*The Communications Provider shall, at the request of:*
>
> *(a) an End-User of the Communications Provider; or*
>
> *(b) another Communications Provider who acquires a Broadband Service from the Communications Provider*
>
> *issue a MAC for the Broadband Service where the Broadband Service is a service to which the MAC Broadband Migrations Process applies.*"

6.   Paragraph A1.2 of the MAC Process states that:

> "*The MAC Broadband Migrations Process applies to the supply by the Communications Provider of all DSL services, with the exception of those DSL services that are required to be migrated by means of a process that relates to the supply of a Fixed Line Telephone Service supplied in conjunction with the DSL service.*"

7.   Paragraph A1.5 of the MAC Process specifies:

> "*The Communications Provider shall communicate the MAC to the End-User in writing by letter and/or by e-mail within five working days of receipt of the End-User's request save for A1.6.*"

8.   Paragraph A1.6 of the MAC Process provides:

> "*Where the Communications Provider has issued the MAC to the End-User over the telephone (including details about the MAC validity period and expiry date and the Broadband Service to which the MAC relates), the Communications Provider is not required to communicate the MAC to the End-User in writing.*"

9.   Paragraph A1.11 of the MAC Process specifies the reasons for which a communications provider can legitimately refuse to issue a MAC to an end-user. It states that:

"*The Communications Provider shall only refuse to issue a MAC to their End-User if:*

(a) the Communications Provider has, by taking reasonable steps, been unable to validate the identity of the person requesting the MAC as the End-User;

(b) the Broadband Service contract has already been terminated;

(c) a MAC which is still within its MAC validity period has already been requested and issued by the Communications Provider in relation to the Broadband Service; and

(d) the Communications Provider has already submitted a Cease Request for the Broadband Service; and

(e) the Communications Provider is unable to obtain a MAC from a Broadband Network Communications Provider."

10.　　Paragraph A1.12 of the MAC Process specifies:

"*Where the Communications Provider is unable to, or refuses to, provide a MAC to the End-User, the Communications Provider shall provide the End-User with a clear explanation of why the MAC has not been provided.*"

11.　　Paragraph A1.13 of the MAC Process specifies:

"*The Communications Provider shall not issue a Cease Request for the Broadband Service unless the Communications Provider has established that the End-User does not wish to transfer the Broadband Service to another Communications Provider.*"

12.　　Paragraph A1.14 of the MAC Process specifies:

"*The Communications Provider shall, when issuing a MAC, confirm to the End-User that any previous termination by the End-User has been revoked, and shall ensure that any current or pending termination actions are cancelled.*"

Action required by Pipex

13.　　Pipex shall have until **5pm** on **23 January 2009** ("**the deadline**") to comply with the requirements of GC22 of which it remains in contravention and remedy the consequences arising from its contraventions. Ofcom considers that the steps to be taken by Pipex may include, but are not limited to:

　　　　a. Issuing a MAC to end-users who have made the request to Pipex within five working days of the request.

  b. Ensure that it establishes that an end-user does not wish to transfer their broadband service to another Communications Provider before ceasing the broadband service.

14.   Pipex shall have until **the deadline** to remedy any consequences arising from its contravention of GC22.

15.   Pipex shall have until **the deadline** to make representations to Ofcom about the matters set out in this notification and the accompanying explanatory statement.

Interpretation

16.   Words or expressions used in the notification have the same meaning as in the Act.

Neil Buckley,
Director of Investigations
12 December 2008

Explanatory Statement

Section 1

Summary

1.1   This Explanatory Statement sets out Ofcom's reasons for determining that there are reasonable grounds to believe that Pipex UK Limited (formerly known as Pipex Homecall Limited) and Pipex Internet Limited (collectively "Pipex") have been contravening General Condition 22 ("GC22").

1.2   Pipex provides telephony and broadband services to consumers and businesses and is now part of Tiscali UK Holdings Limited ("Tiscali").[4] During the period between January 2008 and June 2008 we received around ✂ complaints about Pipex in relation to MAC-related issues. Due to the comparatively high number of these complaints, Ofcom decided to investigate Pipex's compliance with GC22.

1.3   As part of our investigation we gathered evidence from Tiscali, which submitted evidence about elements of Pipex's GC22 compliance following a formal information request.

1.4   In light of this evidence, we have determined that there are reasonable grounds to believe that Pipex has failed to comply with GC22 as it has failed to provide MACs within five working days of receipt of a request from end-users and/or has failed to ensure that customers would not rather transfer their broadband service before placing a cease on the broadband service.

1.5   Ofcom has therefore decided to issue Pipex with a notification under section 94 of the Act ("the Notification").

1.6   The Notification requires Pipex to secure that its contraventions of GC22 are brought to an end and to remedy any consequences arising from its contraventions of GC22. Pipex has until the deadline of **23 January 2009** ("the deadline") to comply with these requirements.

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[4] The voice and broadband divisions of Pipex Communications plc were bought by Tiscali UK Holdings Limited in July 2007 (see www.tiscali.co.uk/presscentre/press_release/2007/july/071307pipex2.html). We understand from Tiscali UK Holdings Limited that the customers of the various Pipex brands that were part of Pipex Communications plc, including Pipex Internet Limited and Pipex Homecall Limited, are now customers of Pipex UK Limited.

1.7   If Pipex does not bring an end to its contravention of GC22 and/or fails to remedy any consequences of its breaches of GC22 by the deadline, we may issue an enforcement notification under section 95 of the Act and/or may impose a penalty under section 96 of the Act. The maximum penalty that may be imposed under section 96 of the Act is 10% of the turnover of the relevant business for the relevant period set out in the Act.

1.8   Pipex additionally has until the deadline to make representations to us about the matters set out in the Notification and this Explanatory Statement.

Section 2

The legal framework

Introduction

2.1   Section 94(1) of the Act states that:

> "*Where OFCOM determine that there are reasonable grounds for believing that a person is contravening, or has contravened, a condition set under section 45, they may give that person a notification under this section.*"

2.2   On 22 July 2003, we published the General Conditions of Entitlement (the "General Conditions") that we intended to set under section 45 of the Act.[5] These General Conditions came into effect on 25 July 2003. In the period since July 2003, we have amended existing general conditions and introduced new general conditions.[6]

General Condition 22

2.3   GC22 deals with the migration of consumer broadband services and came into force on 14 February 2007.[7]

2.4   GC22.1 states that:

> "*All Communications Providers pursuant to a request by an End-User, a Customer or another Communications Provider to migrate (or where applicable, connect) a Broadband Service, shall:*
>
> *(a) comply with the provisions of the MAC Broadband Migrations Process set out at Annex 1 to this Condition; and*
>
> *(b) where the provisions of the MAC Broadband Migrations Process do not apply to the Communications Provider in relation to the Broadband Service, comply with the provisions referred to in Conditions 22.2.*"

2.5   For the purposes of GC22, the term "Communications Provider" is defined as meaning "*a person who provides Broadband Services*" (GC22.3(g)).

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[5] See http://www.ofcom.org.uk/static/archive/oftel/publications/licensing/2003/cond0703.htm
[6] A consolidated version of the General Conditions that are currently in force can be found at: http://www.ofcom.org.uk/telecoms/ioi/g_a_regime/gce/cvogc150807.pdf
[7] See the Regulatory Statement: *Broadband migrations: enabling consumer choice* http://www.ofcom.org.uk/consult/condocs/migration/statement/

2.6   The term "Broadband Services" is defined as meaning "*all high speed DSL services that allow for the transfer of high volumes of data at high speeds*" (GC22.3(c)).

2.7   For the purpose of GC22, the term "End-User" is defined in GC22.3(k), which states:

> ""*End-User" means:*
>
> *(i)   an Account holder; or*
>
> *(ii) a person who may be authorised, by a person falling within paragraph (i) above, so as to transfer the Broadband Service;*
>
> *who is not a person who is acquiring the Broadband Service in respect of an undertaking carried on by him for which more than ten individuals work (whether as an employee or volunteer or otherwise).*"

2.8   The term "Account holder" is defined in GC22.3(a), which states:

> ""*Account Holder" means a person, other than a Communications Provider, who is party to a contract with the Communications Provider for the provision of Broadband Services.*"

2.9   The term "Broadband Migration" is defined in GC22.3(b), which states:

> ""*Broadband Migration" means one or more of the following processes by which:*
>
> *(i) the Communications Provider transfers from one Broadband Service to another Broadband Service;*
>
> *(ii) an End-User or Customer transfers from one Broadband Service to another Broadband Service;*
>
> *(iii) an End-User or Customer transfers from a Broadband Service supplied by the Communications Provider to a Broadband Service supplied by another Communications Provider;*
>
> *(iv) an End-User or Customer transfers from a Broadband Service supplied by a Communications Provider at one location to a Broadband Service supplied by the same Communications Provider at a different location.*"

2.10   Paragraph A1.1 of the MAC Broadband Migrations Process (the "MAC Process") states that:

> "*The Communications Provider shall, at the request of:*
>
> *(a)   an End-User of the Communications Provider; or*
>
> *(b)   another Communications Provider who acquires a Broadband Service from the Communications Provider*

*issue a MAC for a Broadband Service where the Broadband Service is
a service to which the MAC Broadband Migrations Process applies.*"

2.11   The term "MAC" is defined in GC 22.3(m) which states:

"*"MAC" means Migration Authorisation Code, which is a unique code
used to identify a Broadband Service that is intended to be transferred
from one Communications Provider to another Communications
Provider.*"

2.12   The MAC Process applies to the supply by the communications provider of all DSL
services, with the exception of those DSL services that are required to be migrated by
means of a process that relates to the supply of a Fixed Line Telephone Service
supplied in conjunction with the DSL service (paragraph A1.2).

2.13   The term "Fixed Line Telephone Service" is defined in GC22.3(l) as meaning:

"*"Fixed Line Telephone Service" means narrowband calls and lines
services provided to an End-User or Customer that allow for the
transfer of speech communications, and other forms of
communications such as facsimile and data.*"

2.14   Paragraph A1.5 of the MAC Process requires the communications provider to
communicate the MAC to the end-user in writing by letter and/or by e-mail within five
working days of receipt of the end-user's request, unless they have issued the MAC
over the telephone.

2.15   Where the communications provider has issued the MAC to the end-user over the
telephone (including details about the validity period and expiry date and the
broadband service to which the MAC relates), the communications provider is not
required to communicate the MAC to the end-user in writing (paragraph A1.6).

2.16   Paragraph A1.11 of the MAC Process specifies the reasons for which a
communications provider can refuse to issue a MAC to an end-user. It states:

"*The Communications Provider shall only refuse to issue a MAC to
their End-User if:*

*(a)   the Communications Provider has, by taking reasonable steps,
been unable to validate the identity of the person requesting the
MAC as the End-User;*

(b)   the Broadband Service contract has already been terminated;

*(c)   a MAC which is still within its MAC validity period has already
been requested and issued by the Communications Provider in
relation to the Broadband Service; and*

*(d)   the Communications Provider has already submitted a Cease
Request for the Broadband Service; and*

11

> *(e) the Communications Provider is unable to obtain a MAC from a Broadband Network Communications Provider."*

2.17   Paragraph A1.12 of the MAC Process requires the communications provider to provide the end-user with a clear explanation of why the MAC has not been provided in cases where they have been unable to, or refused to, do so.

2.18   Paragraph A1.13 of the MAC Process requires communications providers to check that their customer does not wish to transfer their broadband service before the communications provider ceases that broadband service. It states:

> "*The Communications Provider shall not issue a Cease Request for the Broadband Service unless the Communications Provider has established that the End-User does not wish to transfer the Broadband Service to another Communications Provider.*"

2.19   Where the customer has previously requested that their broadband service be terminated or the communications provider has submitted a cease request for the broadband service, paragraph A1.14 requires that the communications provider ensure that the termination action be cancelled. It states:

> "*The Communications Provider shall, when issuing a MAC, confirm to the End-User that any previous termination by the End-User has been revoked, and shall ensure that any current or pending termination actions are cancelled.*"

Applicability of GC22

2.20   We are satisfied that Pipex UK Limited (formerly known as Pipex Homecall Limited) and Pipex Internet Limited (collectively "Pipex") are communications providers for the purposes of GC22.

2.21   "Communications Provider" is defined in GC22.3(g), which states:

> "*In this Condition:*
>
> *...*
>
> *(g) "Communications Provider" means a person who provides Broadband Services;*"

2.22   "Broadband Services" is defined in GC22.3(c) which states:

> "*In this Condition:*
>
> *…*
>
> *(c) "Broadband Services" means all high speed DSL services that allow for the transfer of high volumes of data at high speeds.*"

2.23   "DSL (Digital Subscriber Line)" is defined in GC22.3(j) which states:

> "*In this Condition*
>
> *…*
>
> *(j) "DSL (Digital Subscriber Line)" means a family of technologies generically referred to as DSL, or xDSL, capable of transforming ordinary phone lines (also known as "twisted copper pairs") into high speed digital lines.*"

2.24   Pipex uses two different methods to provide broadband services to its customers.

2.25   The first method that Pipex uses is BT's IPstream products. IPstream is an ADSL service that allows for the transfer of high volumes of data at high speeds.

2.26   BT describes IPstream as:

> "*…an Internet Protocol (IP) connectivity product that offers semi-permanent virtual circuits between large numbers of End Users, distributed over national areas, and a Customer's central points-of-presence. IP connections are delivered to End Users over the existing metallic local loop using Asymmetric Digital Subscriber Line (ADSL) transmission technology.*
>
> *…*
>
> *A BT IPstream Customer is likely to offer applications and services transported over BT's Data Network to their End Users.*"[8]

2.27   IPstream is therefore a facility by which BT provides other communications providers (in this case, Pipex) with the ability to offer broadband Internet connectivity and associated services (such as e-mail services) over the BT network. Providers such as Pipex may provide those services directly to (end-user) customers, or offer those services for onward sale by other providers. Pipex is therefore a provider of broadband services when it uses IPstream to provide broadband services to its customers.

2.28   The second method used by Pipex to provide broadband (and sometimes, voice) services to end-user customers are metallic path facility ("MPF") services, which Pipex obtains from Openreach through local loop unbundling ("LLU").

2.29   MPF services can either be shared MPF services or full MPF services. When using shared MPF services, Pipex simply takes the high bandwidth part of the line to provide broadband services to end-users. When using full MPF services, Pipex takes the entire line and provides both voice and broadband services to the end-user.

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[8] See
http://www.btwholesale.com/content/binaries/pricing/sppl/section_44/part1_bt_ipstream/Section44%20Part11%20180906.doc

13

2.30   MPF services allow for the transfer of high volumes of data at high speeds using ADSL and so fall within the definition of "DSL" in GC22.3(j) and therefore the definition of "Broadband Services" in GC22.3(c). Pipex is therefore a provider of broadband services when it uses MPF services to provide broadband to its customers. However, only shared MPF services are covered by GC22 as full MPF services are migrated using processes relating to the supply of the fixed line voice telephony service (see paragraph 2.13).

2.31   Therefore both Pipex UK Limited (formerly known as Pipex Homecall Limited) and Pipex Internet Limited fall within the definition of communications provider for the purposes of GC22.

2.32   The evidence gathered during the investigation suggests that the Pipex customers who complained to Ofcom had requested a MAC to migrate their broadband service. We do not consider it likely that they were communications providers or customers in respect of an undertaking for which more than ten individuals work (whether as employees or volunteers or otherwise).[9]

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[9] Ofcom's records indicate that each of these consumers advised us that they were individuals when making their complaint to Ofcom – see the summaries in Annex 1.

Section 3

The investigation

3.1   As set out above, GC22 came into force on 14 February 2007. On this date, we opened an active enforcement programme to monitor compliance with the new general condition and, if necessary, to take action to enforce the new rules.[10]

3.2   As part of the enforcement programme, we sought to identify which communications providers were generating disproportionate levels of complaints into Ofcom from consumers. We did this by monitoring the level of complaints that we were receiving about each communications provider's compliance with GC22 and comparing this with data received from BT about the number of broadband end-users that were migrating away from each communications provider and data from Pipex about the number of MAC requests it was receiving each month.

3.3   During the enforcement programme we identified that Pipex had a relatively high ratio of MAC-related complaints to MAC requests compared to other major broadband providers. Between the introduction of GC22 on 14 February 2007 and 30 June 2008, we received over ✂ complaints regarding Pipex's provision of MACs.[11] During this period, Pipex advised us that it had received just over ✂ requests for MACs.[12]

3.4   In November 2007, Ofcom engaged in discussions with Tiscali about the high levels of complaints being received by Ofcom about Pipex, following Tiscali's purchase of Pipex.[13] Pipex's performance subsequently improved during December 2007 and January 2008.

3.5   However, complaints against Pipex then began to rise again in February 2008 and continued at a similar level for the following three months. Pipex averaged ✂ complaints per month between February 2008 and May 2008, compared to the ✂ complaints it received in January 2008. On this basis we concluded that it was appropriate to investigate further the activities of Pipex.

3.6   Since then, we have continued to receive further complaints about the provision of MACs by Pipex. In the period 1 July 2008 to 31 October 2008, we received a further ✂ complaints about Pipex, giving us further concerns on Pipex compliance with the requirements of GC22.

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[10] Details of the developments in the enforcement programme are set out on Ofcom's Competition and Consumer Enforcement Bulletin at
http://www.ofcom.org.uk/bulletins/comp_bull_index/comp_bull_ocases/open_all/cw_946/

[11] Summaries of the MAC-related complaints received about Pipex between January 2008 and October 2008 are included in Annex 1.

[12] Over the same period, the other major ISPs had a ratio of MAC complaints to MAC requests of less than ✂, compared to the ratio of nearly ✂ achieved by Pipex.

[13] See paragraph 1.2 above for details.

Information request and response from Pipex

3.7   As part of our investigation, we decided to examine in detail specific complaints received about Pipex between January 2008 and June 2008. On 27 June 2008, we therefore issued Pipex with a formal notice under section 135 of the Act ("the Notice"), requesting details in relation to complaints received by Ofcom about Pipex.[14] The Notice required Pipex to provide details of the discussions and correspondence between it and the customers listed in the Notice for the purpose of ascertaining whether Pipex had contravened GC22 during the period 1 November 2007 to 20 June 2008. In particular, we requested that Pipex provide the following information:

"…

(i) notes and records (including call recordings where available) of all telephone conversations between employees and/or agents of Pipex and the consumers;

(ii) copies of all emails received from and/or sent to the consumers; and

(iii) copies of all letters received from and/or sent to the consumers."

3.8   Pipex responded to the information request on 7 July 2008.

3.9   Having considered the information supplied, we have reasonable grounds to believe that Pipex contravened GC22 as evidenced by the 13 cases detailed in this notification.

3.10   The evidence referred to in the cases set out below primarily consists of recordings of telephone calls between Pipex and its customers and the notes made by Pipex in relation to these customers on Pipex's customer relationship management system (CRMS).[15] We also refer to Ofcom's records of contact with these customers when they called to complain about Pipex.[16]

3.11   We understand however that Pipex does not record all phone calls with customers and there are therefore not transcripts of every relevant phone call.[17]

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[14] A copy of the section 135 notice is included at Annex 2.

[15] Pipex uses a number of different computer systems to record details of its interaction with its customers. References to CRMS therefore include references to any and/or all of these systems, which include "✂", "✂" and "✂".

[16] Summaries of the complaints made by these Pipex customers when contacting Ofcom are set out at the start of Annex 1.

[17] In addition, some of the call records have no reference to a specific date. Where possible we have inferred dates from the contemporaneous evidence, comparing the CRMS notes and call recordings provided by Pipex.

Contravention of General Condition 22

Requirements of the MAC Process

3.12   As set out in paragraph 2.4 above, GC22.1 requires a communications provider to comply with the provisions of the MAC Process set out in Annex 1 to GC22 following the receipt of a request from an end-user, a customer or another communications provider to migrate a broadband service.

3.13   As stated in Section 2, Pipex provides broadband services and is therefore a communications provider for the purposes of GC22.

3.14   The broadband services that Pipex provided to the customers who complained to Ofcom were based on BT's IPstream products or on shared MPFs, which are DSL services that do not require to be migrated by means of a process related to the supply of a Fixed Line Telephone Service.[18] The MAC Process therefore applies to the broadband services provided to these customers.

3.15   As set out in paragraphs 2.10 to 2.19, the MAC Process places a number of requirements on communications providers who provide broadband services. These include:

(a) a requirement to provide a MAC at the request of an end-user (paragraph A1.1) within five working days of receipt of a request (paragraph A1.5 and paragraph A1.6);[19]

(b) a requirement to provide a clear explanation of why the MAC has not been provided where the communications provider is unable to, or refuses to, provide a MAC to the end-user (paragraph A1.12); and

(c) a requirement not to issue a cease order unless it has first established that the end-user do not wish to transfer their broadband service to another communications provider (paragraph A1.13) and to cancel any cease order that has already been submitted (paragraph A1.14).

3.16   In relation to each of the cases below, we assess Pipex's compliance with these requirements. We have relied upon dates provided to us in relation to the transcripts of call recordings and all CRMS records.

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[18] Only broadband services provided over full MPF are required to be migrated by means of a process that relates to the supply of a Fixed Line Telephone Service. Although Pipex does have some customers on full MPFs, it does not appear that this was the case in the examples below as Pipex had the ability to generate MACs for these customers.

[19] The requirement to provide a MAC is subject to the exceptions contained in paragraphs A1.2 and A1.11 of the MAC Process.

17

✂ [Customer 1]

3.17 ✂ [Customer 1] contacted Ofcom on 8 April 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 1] was at the time a residential broadband customer of Pipex. ✂ [Customer 1] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.18 On 18 March 2008, ✂ [Customer 1] called Pipex to request a MAC. On the telephone recording he can be heard saying to the Pipex agent: "*I'm after my MAC code please*".[20] The Pipex agent endeavoured to retain the customer's business but ✂ [Customer 1] responded by saying "*can I just have my MAC code, actually*". The agent replied, "*ok, well I'll request that for you now, sir*".[21] ✂ [Customer 1] was put through to another Pipex agent who confirmed that ✂ [Customer 1] requested a MAC and explained the process. Notes made at the time on Pipex's CRMS by the Pipex agent state: "*requested mac, validated*"[22], indicating that this was the date of the initial MAC request and that the call agent was satisfied that the caller was a Pipex broadband customer who was entitled to request a MAC.[23]

3.19 On 25 March 2008, ✂ [Customer 1] called Pipex because he had not received his MAC and had been disconnected from the internet.[24] He told the agent, "*I asked for my mac code last week and then the next day my internet seemed to be totally down*". The agent advised him to contact technical support. ✂ [Customer 1] went on to ask "*do you have my mac code*" and was told by the agent, "*no, you must have been told it takes about five working days to get a MAC code*".

3.20 On 31 March 2008, ✂ [Customer 1] called again. It is recorded on Pipex's CRMS by an agent that "*eu wants a mac code*".[25]

3.21 On 7 April 2008, ✂ [Customer 1] again called Pipex because he had not received a MAC.[26] He told the agent: "*I requested my MAC code about -- not last Wednesday, but the Wednesday before and it hasn't come through yet*". The agent replied: "*you were advised that it does take five working days*". ✂ [Customer 1] responded: "*Yes, but that's more than five working days even with bank holidays…*" The agent confirmed that the MAC was originally requested on 18 March 2008, but advised ✂ [Customer 1] that on 19 March 2008 the computer records indicated that it had not been possible to generate a MAC because he no longer had an account with Pipex. ✂ [Customer 1]

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[20] See the transcript of the call dated 18 March 2008 in Tab A of Annex 3.

[21] See the transcript of the call dated 18 March 2008 in Tab A of Annex 3.

[22] See Tab D of Annex 3. Throughout this document extracts from Pipex's CRMS systems are used verbatim. In some cases these lack clear grammar or punctuation. Where abbreviations are used, these will be explained in footnotes.

[23] For details of the CRMS records in relation to ✂ [Customer 1] see Tab D of Annex 3.

[24] See the transcript of the call dated 25 March 2008 in Tab B of Annex 3.

[25] For details of the CRMS records in relation to ✂ [Customer 1] see Tab D of Annex 3. The reference to "eu" in this and other records is to the "end user".

[26] See the transcript of the call dated 7 April 2008 in Tab C of Annex 3.

was transferred to another agent who confirmed that ✂ [Customer 1]'s "*account is live now … I can request a MAC code for you*".

3.22   On 8 April 2008, ✂ [Customer 1] called Ofcom because he had still not received a MAC. It is recorded on Ofcom's contemporaneous telephone note that: "*Consumer has called as he has been trying to get a MAC code from Pipex for several weeks. He says every time he requests it they keep disconnecting the service instead. Consumer has called Ofcom for advice.*" Ofcom advised the customer that the MAC must be made available within five days of the request and devolved the complaint to Pipex.

3.23   Notes recorded on Pipex's CRMS by an agent on 8 April 2008 indicate that Pipex "*called customer and advised Mac has not been processed. Customer aware of next step (new provision of broadband will be required with new provider)*".[27]

3.24   CRMS records show that Pipex agents contacted ✂ [Customer 1] on 9 and 10 April 2008 to inform him that Pipex was still awaiting further information.[28]

3.25   It is recorded on Pipex's CRMS records dated 17 April 2008 that an agent "*called eu apologised for delay with MAC advised it has now been issued … Eu confirmed MAC been emailed and read out same as what I have.*"[29]

3.26   On the basis of the evidence supplied by Pipex we have reasonable grounds to believe that Pipex failed to provide ✂ [Customer 1] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

3.27   Although Pipex subsequently informed ✂ [Customer 1] that it was unable to provide him with a MAC because he was no longer listed as having a broadband account with Pipex, it appears that this was the result of Pipex ceasing the broadband account rather than ✂ [Customer 1] requesting his broadband service to be ceased. On the basis of the evidence, we have reasonable grounds to believe that Pipex contravened paragraph A1.13 of the MAC Process under GC22.1as it ceased ✂ [Customer 1]'s broadband service when he had made clear that he wanted to change supplier and had requested a MAC.

✂ [Customer 2]

3.28   ✂ [Customer 2] contacted Ofcom on 28 February 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 2] was at the time a residential broadband customer of Pipex. ✂ [Customer 2] was therefore an end-user of Pipex broadband services for the purpose of GC22.

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[27] For details of the CRMS records in relation to ✂ [Customer 1] see Tab D of Annex 3.
[28] For details of the CRMS records in relation to ✂ [Customer 1] see Tab D of Annex 3.
[29] For details of the CRMS records in relation to ✂ [Customer 1] see Tab D of Annex 3.

3.29 Records from Pipex's CRMS indicate that ✂ [Customer 2] sent an e-mail to Pipex on 18 February 2008 requesting a MAC.[30] The following message is recorded: "*Want to leave and need MAC code - am deaf so ca't [sic] ring you.What do I need to do?*"

3.30 Pipex CRMS records indicate that on 23 February 2008, a Pipex agent responded to ✂ [Customer 2]'s request with the following email: "*Please accept my apologies for the delayed response to your E-Mail. I have today forwarded your request for a MAC Code to transfer away your services from ourselves to our Provisions team. The MAC Code will then be generated and issued to yourself via E-Mail.*"[31] No explanation was provided for the delay.

3.31 ✂ [Customer 2] contacted Ofcom by e-mail on 28 February 2008 stating: "*despite receiving an email saying it is on it's way, I have tried for 14 days to get my MAC code only to be given a number that's either unobtainable or engaged. Also they know I am deaf and cannot ring them but they are doing nothing to help a disabled customer.*"

3.32 The Pipex CRMS records indicate that Pipex received the MAC on 10 March 2008 and that this was sent to ✂ [Customer 2] on 11 March 2008. "*Sent MAC via e-mail to ✂. Account holder is Deaf so could not phone for MAC.*"[32] This confirms that ✂ [Customer 2] was provided with a MAC on or around 11 March 2008.

3.33 On the basis of the evidence supplied by Pipex we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 2] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 3]

3.34 ✂ [Customer 3] contacted Ofcom on 21 May 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 3] was at the time a residential broadband customer of Pipex. ✂ [Customer 3] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.35 Pipex CRMS records indicate that ✂ [Customer 3] first called to request a MAC on 28 March 2008.[33] ✂ [Customer 3] explained that the reason for his request was that he had been without an internet connection for "about *three or four weeks now.*" The Pipex agent asked ✂ [Customer 3] whether he was "*looking for a MAC code*", to which ✂ [Customer 3] replied "*I will be, yes*".[34]

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[30] For details of the CRMS records in relation to ✂ [Customer 2] see Annex 4.

[31] For details of the CRMS records in relation to ✂ [Customer 2] see Annex 4.

[32] For details of the CRMS records in relation to ✂ [Customer 2] see Annex 4.

[33] For details of the CRMS records in relation to ✂ [Customer 3] see Tab F of Annex 5.

[34] See the transcript of the call dated 28 March 2008 in Tab E of Annex 5.

3.36   A note on Pipex's CRMS records indicates that a MAC was generated on 1 April 2008.[35]

3.37   Although Pipex's CRMS records state that agents attempted to call ✂ [Customer 3] on 5, 6 and 8 April 2008, it appears that this was in relation to making arrangements for a ✂ engineer to visit.[36] There is no mention of contacting ✂ [Customer 3] to provide him with a MAC.

3.38   On 28 April 2008, Pipex CRMS records indicate that ✂ [Customer 3] rang again asking for his MAC. The CRMS notes of that conversation simply state: "*EU will cancel the account and wants a MAC code*".[37]

3.39   In a note on Pipex's CRMS dated 1 May 2008 it is recorded that "*confirmed customer requested mac very unhappy with tech support has had no broadband for 2 months has been promised several cb to no avail*".[38]

3.40   On 9 May 2008, ✂ [Customer 3] rang Pipex again because he had still not received a MAC. It is recorded on the Pipex's CRMS that: "*last mac did not go to cust.ordered new mac cust will ring back*".[39]

3.41   On 21 May 2008, ✂ [Customer 3] called Ofcom to complain. It is recorded in contemporaneous Ofcom records that "*Consumer called to complain about Pipex. He has been trying to get his MAC from them for over 2 weeks now and has made numerous calls to Pipex to get the code but keeps getting passed around and told different things. He is unhappy and seeks to escalate the issue.*" Ofcom devolved the complaint to Pipex to address the issues raised.

3.42   Pipex CRMS notes indicate ✂ [Customer 3] called again on 28 May 2008. The Pipex agent that dealt with the call noted that "*customer has requested a mac on several occasions and last one on system failed with no reason have explained i will try to generate a new one*".[40]

3.43   There is no record as to whether a MAC was generated and sent to ✂ [Customer 3] following this call.

3.44   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 3] with a MAC within five working

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[35] For details of the ✂ CRMS records in relation to ✂ [Customer 3] see Tab G of Annex 5.

[36] For details of the ✂ CRMS records in relation to ✂ [Customer 3] see Tab G of Annex 5.

[37] For details of the CRMS records in relation to ✂ [Customer 3] see Tab F of Annex 5.

[38] For details of the CRMS records in relation to ✂ [Customer 3] see Tab F of Annex 5. In the context of the call, "cb" means call back.

[39] For details of the CRMS records in relation to ✂ [Customer 3] see Tab F of Annex 5. "Cust." is taken to be an abbreviation of "customer".

[40] For details of the CRMS records in relation to ✂ [Customer 3] see Tab F of Annex 5.

days of his request on 28 March 2008, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 4]

3.45   ✂ [Customer 4] contacted Ofcom on 31 March 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 4] was at the time a residential broadband customer of Pipex. He was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.46   Pipex CRMS records indicate ✂ [Customer 4] rang Pipex on 3 March 2008 to request a MAC. The record states: "*cust called in for mac…*"[41] The transcript of that call shows that ✂ [Customer 4] explained that he was moving because he was dissatisfied with the broadband service from Pipex, noting that "*the speeds are slow, they are dreadful*". The Pipex agent advised ✂ [Customer 4] that the MAC could take "*up to five working days*" to arrive.[42]

3.47   Pipex records indicate that ✂ [Customer 4] contacted Pipex again on 17 March 2008 in relation to his MAC request.[43] Pipex's records suggest that one of their systems was indicating that broadband was not active which meant that the MAC request needed to be dealt with manually. The agent noted on the CRMS system: "*updated provisioning ticket to re-request mac code as mac code failure*".

3.48   A note on Pipex's CRMS dated 18 March 2008 suggests that a MAC was generated for ✂ [Customer 4]: "*For Telephone Number ✂ and MAC Code: ✂. Expiry date is 17-APR-08.*"[44]

3.49   It would appear, however, that this MAC was not provided to ✂ [Customer 4] as the CRMS records indicate that he called Pipex again on 20 and 25 March 2008 because he had still not received a MAC. The CRMS record for 25 March states: "*cust has called up for mac on 3 occassions [sic] and as of yet has nopt [sic] received a mac, order placed on 20/03/08 is still being processed.*"[45]

3.50   The CRMS records and transcript indicate that ✂ [Customer 4] called Pipex again on 28 March, 31 March and 1 April.[46] During one of these calls (it is not clear which as the call recording was not dated), the Pipex agent identified that the MAC request was failing because ✂ [Customer 4]'s line rental contract with Pipex was being cancelled at the same time. The agent advised ✂ [Customer 4] that once the line rental was

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[41] For details of the CRMS records in relation to ✂ [Customer 4] see Tab L of Annex 6.
[42] See the transcript of the call dated 3 March 2008 in Tab HI of Annex 6.
[43] For details of the CRMS records in relation to ✂ [Customer 4] see Tab L of Annex 6.
[44] For details of the CRMS records in relation to ✂ [Customer 4] see Tab L of Annex 6.
[45] For details of the CRMS records in relation to ✂ [Customer 4] see Tab L of Annex 6. "Cust" is taken to mean "customer".
[46] For details of the CRMS records in relation to ✂ [Customer 4] see Tab L of Annex 6. For the transcript of the call dated between 25 March and 1 April 2008 see Tab JK of Annex 6.

cancelled, "*the migration code will then be released*" and that this would be with him by 6 April.[47]

3.51   Although Pipex advised ✂ [Customer 4] that it had been unable to generate a MAC from ✂ because of the line rental cancellation that was taking place, this appears to have taken place after the initial MAC request was made and the first MAC was generated. Pipex had therefore been able to generate a MAC and could have provided it within five working days but failed to do so.

3.52   Pipex CRMS records indicate that Pipex called ✂ [Customer 4] on 2 April 2008 and provided him with a MAC over the telephone. The MAC was sent to ✂ [Customer 4] by post on 4 April 2008.[48]

3.53   On the basis of the evidence supplied by Pipex we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 4] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 5]

3.54   ✂ [Customer 5] contacted Ofcom on 15 April 2008 to complain about Pipex and its failure to provide her with a MAC. ✂ [Customer 5] was at the time a residential broadband customer of Pipex. She was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.55   Pipex's records indicate that calls were made to request a MAC on 4 April 2008 and again on the 7 April 2008.[49]

3.56   ✂ [Customer 5] called for an update on the MAC request on 10 April 2008 and was advised by the Pipex agent that it takes up to five working days to provide a MAC.[50]

3.57   After the five working days had elapsed without receipt of the MAC, ✂ [Customer 5] rang Pipex on 14 April 2008 to complain. After waiting for over eight minutes to be connected to a Pipex agent ✂ [Customer 5] explained: "*they should have sent it to us within five days and it's not here today and I'm a bit annoyed about it…*"[51]

3.58   The Pipex agent initially advised that the MAC had not been requested but then subsequently identified that a "*work order for a MAC request, active date 7 April*" had been created but that no MAC had been generated as a result.

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[47] See the transcript of the call dated between 25 March and 1 April 2008 in Tab JK of Annex 6.
[48] For details of the CRMS records in relation to ✂ [Customer 4] see Tab L of Annex 6.
[49] For details of the CRMS records in relation to ✂ [Customer 5] see Tab N of Annex 7.
[50] For details of the CRMS records in relation to ✂ [Customer 5] see Tab N of Annex 7.
[51] See the transcript of the call dated 14 April 2008 in Tab M of Annex 7.

3.59   Pipex's CRMS record indicates that a MAC was generated on 14 April 2008; "*…MAC code:* ✂*, expiry date: 14/05/2008…*"[52]

3.60   According to Pipex CRMS records ✂ [Customer 5] were, "*sent a letter informing them of their MAC*" on 15 April 2008.[53]

3.61   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 5] with a MAC within five working days of their request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 6]

3.62   ✂ [Customer 6] contacted Ofcom on 2 May 2008 in order to seek advice about Pipex's failure to provide him with a MAC. ✂ [Customer 6] was at the time a residential broadband customer of Pipex. ✂ [Customer 6] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.63   Pipex CRMS records state that ✂ [Customer 6] had, "*requested [sic] for MAC code*" on 3 April 2008.[54]

3.64   ✂ [Customer 6] did not receive a MAC and Pipex's CRMS records indicate that he rang on 21 April and 2 May 2008 to request the MAC again.[55]

3.65   ✂ [Customer 6] called Ofcom on 2 May 2008 in relation to Pipex's failure to provide him with a MAC: "*Consumer is unhappy as Pipex Internet have failed to issue a MAC upon request. Consumer requested the MAC over a month ago. Consumer seeks advice.*" Ofcom's records indicate that ✂ [Customer 6] was advised that Pipex was obliged to provide a MAC within five working days.

3.66   On 3 June 2008, Pipex's records indicate that ✂ [Customer 6] called again to request a MAC and that two months of free broadband were added to ✂ [Customer 6]'s account.[56]

3.67   Pipex's CRMS records indicate that ✂ [Customer 6] finally received his MAC on 10 June 2008.[57]

3.68   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 6] with a MAC within five working

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[52] For details of the CRMS records in relation to ✂ [Customer 5] see Tab N of Annex 7.
[53] For details of the CRMS records in relation to ✂ [Customer 5] see Tab N of Annex 7.
[54] For details of the CRMS records in relation to ✂ [Customer 6] see Annex 8.
[55] For details of the CRMS records in relation to ✂ [Customer 6] see Annex 8.
[56] For details of the CRMS records in relation to ✂ [Customer 6] see Annex 8.
[57] For details of the CRMS records in relation to ✂ [Customer 6] see Annex 8.

days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 7]

3.69   ✂ [Customer 7] contacted Ofcom on 12 May 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 7] was at the time a residential broadband customer of Pipex. He was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.70   Pipex's CRMS records and telephone conversations transcripts indicate that ✂ [Customer 7] initially contacted Pipex on 21 April 2008 to request a MAC.[58] During this call, ✂ [Customer 7] asked: "*I wonder if it would be possible to have my MAC code today, please?*" The Pipex agent replied "*Yes, I will just order it for you*". The agent went on to advise "*it will take a maximum of five days to get to you.*"[59]

3.71   The CRMS records and call recordings show that ✂ [Customer 7] made further calls to Pipex on 28 April, 6 May, 8 May and 9 May 2008 to request a MAC.[60] During the call on the 8 May, the Pipex agent identified that "*someone has accidentally requested a Bulldog MAC code to be sent to you*" rather than a Pipex Internet MAC.[61] The agent cancelled this MAC request and "*escalated it to have an actual Pipex Internet MAC code*" sent to ✂ [Customer 7].

3.72   On 12 May 2008, approximately three weeks after ✂ [Customer 7] had first requested the MAC, he again called Pipex because the MAC had still not been provided. He explained: "*My name is ✂, I currently have your internet and about three weeks ago I applied for my MAC code, on April 21st to be precise.*" He went on to say "*I've rung several people in the meantime and each one tells me it will take five days, but I still haven't got it and when I spoke to someone Friday, they said that it has been reapplied for.*"[62]

3.73   The agent then asked ✂ [Customer 7] when the MAC was reordered. ✂ [Customer 7] replied "*Wednesday or Thursday of last week, by a young lady of the name of…I've got it written down here… ✂, because apparently, when she looked to see why I haven't received it, whoever did it first of all…… must have put it through that I was a Bulldog customer…. Well I'm not a Bulldog customer.*" The Pipex agent acknowledged this.

3.74   Later in the same conversation, ✂ [Customer 7] said he could not understand why he had not received his MAC and the Pipex agent replied "*to be honest with you, neither*

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[58] For details of the CRMS records in relation to ✂ [Customer 7] see Tab E of Annex 9.

[59] See the transcript of the call dated 21 April 2008 in Tab O of Annex 9.

[60] See the CRMS records in Tab E of Annex 9 and the transcripts of the calls dated 28 April, 6 May, 8 May and 9 May 2008 in Tabs PQ to UV of Annex 9.

[61] See the transcript of the call dated 8 May 2008 in Tab T of Annex 9. Bulldog is another of the ISP brands owned by Pipex.

[62] See the transcript of the call dated 12 May 2008 in Tab WX of Annex 9.

do I'. At the end of the conversation, the Pipex agent confirmed to ✂ [Customer 7] that a further MAC had been requested.

3.75 ✂ [Customer 7] called back on 15 May 2008 to request his MAC.[63] The Pipex agent that he spoke to on this occasion told ✂ [Customer 7] that he could not provide him with a MAC because there was a cancellation pending on the account. From the content of the conversation it would appear that a cancellation request was generated on 21 April 2008 rather than a MAC request.[64] ✂ [Customer 7] was advised that "*because a cancellation is pending on your account, I won't be able to generate you a MAC code today*". The Pipex agent advised ✂ [Customer 7] that he would have to wait 10-15 days until his line cleared before he could order broadband with someone else and that a MAC would not then be required.

3.76 ✂ [Customer 7] called again on 19 and 21 May 2008 to request his MAC. During the call of 21 May, ✂ [Customer 7] made it clear that he had not requested a cancellation, just a MAC and the Pipex agent said "*…they cancelled it rather than giving you a MAC*". ✂ [Customer 7] enquired why Pipex could not provide "*a simple cancel order*", to which the Pipex agent responded "*I have no idea to be honest*".[65] The call ended with ✂ [Customer 7] advising the agent that he was going to bring the matter to the attention of Ofcom.

3.77 ✂ [Customer 7] called Pipex the following day on 22 May 2008 and spoke to a different agent. He advised the agent that the 30 day cancellation period had now expired, but his Pipex internet connection was still working. He confirmed to the agent that he first requested his MAC on 21 April 2008 which was 30 days beforehand.[66]

3.78 The Pipex agent advised ✂ [Customer 7] that his account would revert back to a live status on 31 May 2008 and that a MAC would be issued on that date, some nine days later.

3.79 ✂ [Customer 7] contacted Pipex again on 2 June 2008 and received his MAC via the telephone.[67]

3.80 On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 7] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

3.81 Although Pipex subsequently informed ✂ [Customer 7] that it was unable to provide him with a MAC because the service was in the process of being cancelled, it appears

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[63] See the transcript of the call dated 15 May 2008 in Tab YZ of Annex 9.
[64] The notes for that call left by the agent on Pipex's CRMS records however clearly state: "*MAC code explained and requested on ✂*" – see Tab E of Annex 9.
[65] See the transcript of the call dated 21 May 2008 in Tab B of Annex 9.
[66] See the transcript of the call dated 22 May 2008 in Tab C of Annex 9.
[67] See the transcript of the call dated 22 May 2008 in Tab D of Annex 9.

that this was the result of Pipex ceasing the broadband account rather than ✂ [Customer 7] requesting his broadband service to be ceased. On the basis of the evidence, we have reasonable grounds to believe that Pipex contravened paragraph A1.13 of the MAC Process under GC22.1 as it ceased ✂ [Customer 7] 's broadband service when he had made clear that he wanted to change supplier and had requested a MAC.

✂ [Customer 8]

3.82 ✂ [Customer 8] contacted Ofcom on 12 May 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 8] was at the time a residential broadband customer of Pipex. ✂ [Customer 8] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.83 Pipex's CRMS records indicate that on 18 April 2008, ✂ [Customer 8] called and said, "*I need the MAC key, or the MAC code*". The Pipex agent advised ✂ [Customer 8], "*It will be sent to you via the post and you should receive it within five working days.*"[68]

3.84 On 29 April 2008, ✂ [Customer 8] called Pipex and asked for a MAC because he had not received one yet. The Pipex agent said, "*you haven't applied for one have you?*" to which ✂ [Customer 8] confirmed that he had "*asked for one on 17th April*".[69]

3.85 The Pipex agent initially told ✂ [Customer 8] that a MAC couldn't be issued because of "*some maintenance on the phone line*". She later explained "*I've just had a look and it's saying that the person that you requested a MAC code off hasn't even requested a MAC code for you.*" The Pipex agent went on to advise ✂ [Customer 8] that she had requested it and that it would be provided to him within the next 48 hours to five working days.

3.86 On 12 May 2008, ✂ [Customer 8] contacted Ofcom and explained that he had been endeavouring to obtain a MAC from Pipex since 17 April 2008. He complained that he still had not received it.

3.87 On 16 May 2008, ✂ [Customer 8] called Pipex because he had still not received the MAC. The agent explained that the reason why the MAC could not be provided was because "*the account was in the process of cancelling*" and that there was something wrong with the "*system*". The agent went on to confirm that a fresh MAC had just been requested and that he would receive it within five working days.[70]

3.88 Notes left by an agent on Pipex's CRMS on 22 May 2008 state: "*LLU order for reseller is stuck and we cannot generate a Mac code for a reseller account. Please pass this*

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[68] See the transcript of the call dated 18 April 2008 in Tab F of Annex 10.
[69] See the transcript of the call dated 29 April 2008 in Tab G of Annex 10.
[70] See the transcript of the call dated 16 May 2008 in Tab JK of Annex 10.

case to B2B Provisioning".[71] There is no indication of whether this was communicated to ✂ [Customer 8].

3.89 Pipex's CRMS records indicate that ✂ [Customer 8] contacted Pipex again on 23 May 2008 to request a MAC. The record states: "*eu called asking for his MAC code and then he told me that he already talked to the tech.supp.and then [sic] told him that his account is cancelled but what i can see on the account status is live but checked the status history the account is suspended last may19,2008*".[72]

3.90 On 28 May 2008, ✂ [Customer 8] called Pipex because his account had been suspended and made inactive.[73] The Pipex agent advised ✂ [Customer 8] that there was a technical fault and that he needed to speak to the technical department. ✂ [Customer 8] asked for a MAC and the agent told him that she had re-requested it that day and that it would be with ✂ [Customer 8] within five working days.

3.91 On 30 May 2008, ✂ [Customer 8] again called Pipex to request his MAC and report that his internet connection was still not functioning; he asked to speak to a supervisor.[74] After a long pause of over three minutes, the Pipex agent explained that the supervisor "*has gone on his break*".

3.92 The Pipex agent then offered to provide ✂ [Customer 8] with a MAC within five working days. ✂ [Customer 8] was dissatisfied with that response and said "*No, no, no. That's the sixth promise in exactly those terms. No, it's not good enough. Six times, that's been six times I've been given that response from Pipex. Now please, I don't care who it is, whatever supervisor it was, please find another one*".

3.93 After another long pause of at least six minutes, ✂ [Customer 8] was told by the Pipex agent that he had "*not been able to get a supervisor*". ✂ [Customer 8] was clearly dissatisfied with the Pipex agent's response.

3.94 Pipex CRMS records indicate that a MAC was eventually provided to ✂ [Customer 8] by telephone on 3 June 2008.[75]

3.95 Although the Pipex agents gave ✂ [Customer 8] a number of different reasons as to why a MAC could not be issued, none of those reasons appear to justify why a MAC could not be provided within five working days as they do not correspond to the reasons set out in A1.11 of the MAC Process under GC22.1.

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[71] For details of the CRMS records in relation to ✂ [Customer 8] see Tab N of Annex 10. "B2B" is an abbreviation of "Business to Business".
[72] For details of the CRMS records in relation to ✂ [Customer 8] see Tab N of Annex 10. "Tech.supp" is taken to refer to Pipex's technical support department.
[73] See the transcript of the call dated 28 May 2008 in Tab L of Annex 10.
[74] See the transcript of the call dated 30 May 2008 in Tab M of Annex 10.
[75] For details of the CRMS records in relation to ✂ [Customer 8] see Tab N of Annex 10.

3.96   Equally, if the account was being cancelled (as was suggested during the call of 16 May 2008) this would have been a contravention of A1.13 of the MAC Process under GC22.1 and Pipex was obliged under paragraph A1.14 of the MAC Process under GC22.1 to terminate that cancellation and provide a MAC instead.

3.97   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 8] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 9]

3.98   ✂ [Customer 9] contacted Ofcom on 19 May 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 9] was at the time a residential broadband customer of Pipex. ✂ [Customer 9] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.99   Pipex CRMS records indicate that ✂ [Customer 9] contacted Pipex on 28 April 2008 to request a MAC because his broadband connection speed was too slow.[76]

3.100 On 8 May 2008, ✂ [Customer 9] contacted Pipex because he had still not received a MAC. Pipex's CRMS record for this call states "*eu asking for his mac code*". The Pipex agent also added "*MAC generation in progress*".[77]

3.101 On 13 May 2008, ✂ [Customer 9] was still not in possession of a MAC and therefore contacted Pipex again to ask why it had not been sent. The Pipex CRMS records state "*customer querying why mac code has not been received as it was requested 2 weeks ago have checked the system two requests made 1 through ✂ and 1 through ✂ have escalated to prov issue as high priority rang customer and explained situation…*"[78]

3.102 ✂ [Customer 9] contacted Ofcom on 19 May 2008 because he had still not received a MAC from Pipex. Ofcom devolved this information to Pipex and logged the complaint.

3.103 Pipex CRMS records indicate that another MAC was requested for ✂ [Customer 9] on 22 May 2008 and state "*I am sending another mac for the customer because it looks like it never got sent*".[79]

3.104 Pipex CRMS records show that on 28 May 2008 a Pipex agent "*Called customer and spoke to account holder gave MAC over the phone*".[80]

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[76] For details of the CRMS records in relation to ✂ [Customer 9] see Annex 11.
[77] For details of the CRMS records in relation to ✂ [Customer 9] see Annex 11.
[78] For details of the CRMS records in relation to ✂ [Customer 9] see Annex 11. This quote is taken to mean that ✂ [Customer 9] queried why he had not received his MAC. The agent then checked Pipex's systems and found that two requests for the MAC had been put through. The agent therefore escalated the issue to another department within Pipex as a provisioning issue.
[79] For details of the CRMS records in relation to ✂ [Customer 9] see Annex 11.

3.105 On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 9] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 10]

3.106 ✂ [Customer 10] contacted Ofcom on 11 February 2008 to complain about Pipex and its failure to provide him with a MAC. ✂ [Customer 10] was at the time a residential broadband customer of Pipex. ✂ [Customer 10] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.107 On 5 February 2008, ✂ [Customer 10] contacted Pipex and requested a MAC. The Pipex CRMS records indicate that "*Customer advised that wanting Mac code*".[81]

3.108 On 11 February 2008, the CRMS records indicate that ✂ [Customer 10] contacted Pipex again because had not received a MAC. Despite the fact that the CRMS records clearly indicate that ✂ [Customer 10] requested a MAC on 5 February 2008, the following entry was made: "*MAC requested – customer feels he had already requested (??) – advised not been*".[82]

3.109 On 12 February 2008, it is noted in Pipex's CRMS records that "*Can not generate MAC for customer as Pipex no longer have ownership of the line*".[83] However, this statement appears to be contradicted by the final CRMS entry dated 27 February 2008 where it is stated that ✂ [Customer 10] "*has received his MAC code*".[84]

3.110 On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 10] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 11]

3.111 ✂ [Customer 11] contacted Ofcom on 25 January 2008 to complain about Pipex refusing to issue a MAC due to outstanding monies. ✂ [Customer 11] stated that he was paying twice for his services. ✂ [Customer 11] was at the time a residential broadband customer of Pipex and was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.112 Pipex's CRMS records indicate that on 17 January 2008 ✂ [Customer 11] was advised by an agent to request a MAC. It is recorded that "*Cust is being billed apparently by*

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[80] For details of the CRMS records in relation to ✂ [Customer 9] see Annex 11.
[81] For details of the CRMS records in relation to ✂ [Customer 10] see Annex 12.
[82] For details of the CRMS records in relation to ✂ [Customer 10] see Annex 12.
[83] For details of the CRMS records in relation to ✂ [Customer 10] see Annex 12.
[84] For details of the CRMS records in relation to ✂ [Customer 10] see Annex 12.

pipex internet for bb & pipex homecall chked with care & advd customer to call ret req mac code & pass mac code to pipex homecall to swap all services to them gave ret tel number."[85]

3.113   Pipex's records indicate that a MAC was ordered on 17 January 2008.[86]

3.114   An entry on Pipex's CRMS dated 25 January 2008, indicates that ✕ [Customer 11] called and told Pipex that he was refused a MAC because he had monies outstanding. The agent advised ✕ [Customer 11] to "*email customer services dets to sort issue out*".[87]

3.115   Although Pipex appear to have provided ✕ [Customer 11] with an explanation as to why his request for a MAC was not dealt with within five working days, the reason apparently provided (monies outstanding) does not correspond to the reasons for failing to provide a MAC within five working days set out in A1.11 of the MAC Process under GC 22.1.

3.116   According to Pipex's CRMS records, on 25 January 2008 a Pipex agent attempted to call ✕ [Customer 11] back to provide him with a MAC but "*customer not accepting anonymous calls*".[88]

3.117   Following the devolved complaint from Ofcom, Pipex's records show that they wrote to ✕ [Customer 11] on 29 January 2008, providing him with a MAC.[89]

3.118   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✕ [Customer 11] with a MAC within five working days of his request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✕ [Customer 12]

3.119   ✕ [Customer 12] contacted Ofcom on 4 June 2008 in order to complain about Pipex and its failure to provide her with a MAC. ✕ [Customer 12] was at the time a residential broadband customer of Pipex and was therefore an end-user of Pipex broadband services for the purpose of GC22.

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[85] For details of the CRMS records in relation to ✕ [Customer 11] see Annex 13.This entry is taken to mean that ✕ [Customer 11] was being billed by both Pipex Internet and Pipex Homecall for his broadband service. The agent checked the situation with the Customer Care department and advised ✕ [Customer 11] to call the Retentions Department to request a MAC from Pipex Internet so that he could then migrate his broadband service to Pipex Homecall and thus be billed by only one ISP.
[86] For details of the CRMS records in relation to ✕ [Customer 11] see Annex 13.
[87] For details of the CRMS records in relation to ✕ [Customer 11] see Annex 13.
[88] For details of the CRMS records in relation to ✕ [Customer 11] see Annex 13.
[89] For details of the CRMS records in relation to ✕ [Customer 11] see Annex 13.

3.120   An entry on Pipex's CRMS dated 10 April 2008 states that "*generated mac code and read mac script.* ✂".[90] On 11 April 2008, the Pipex CRMS record indicates that a MAC was generated and "*updated in* ✂".[91]

3.121   Pipex records of 15 April 2008 state that a Pipex agent called ✂ [Customer 12]; "*…spoke to account holder, gave MAC over the phone. Advised that it is valid for 30days from date of request and if it isn't used then BB will remain with us. Also advised they will need to call retention if they needed a new MAC*". [92]

3.122   Having tried to use the MAC to migrate her broadband service, Pipex's records indicate that ✂ [Customer 12] called on 24 April 2008 to advise that: "*…✂ say mac is invalid advised it show valid in line checker and to get a new mac customer would need to get this mac cancelled by calling ✂ as cannot generate another mac whilst this one still shows as valid.*"[93]

3.123   During the call of 24 April 2008, a Pipex agent told ✂ [Customer 12]: "*What you can do, you can ring up* ✂ *and see if they can void off the MAC code, because unfortunately, I could put in a request to generate a MAC code for you now, but that wouldn't actually go through, because there's still one valid*".[94]

3.124   On 12 May 2008, the Pipex CRMS record states that the "*cust called for another MAC as the last one was invalid [sic]*".[95] Following the call of 12 May 2008 the agent added to the records that "*Migrate Out- Reference:* ✂".

3.125   Pipex's records indicate that ✂ [Customer 12] did not receive her MAC within five working days, as she called again to request a MAC on 19 May 2008: "*cust has called requesting MAC, cust has been given mac previously but* ✂ *informed her that the mac was out of time, whilst it was still within the 30 day active time period, a 2nd request for a MAC failed, have applied for a MAC again at 11.54am 19/05/08.*"[96]

3.126   On 21 May 2008, a Pipex agent added to the records that "*MAC should have been requested in* ✂ *now done.*"[97]

3.127   It is not clear whether the MAC was in fact requested by Pipex on 19 May or 21 May. The CRMS has a further entry for 30 May 2008 that states: "*mac code has now been requested*".[98]

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[90] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[91] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[92] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[93] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[94] See the transcript of the call dated 24 April 2008 in Tab O of Annex 14.
[95] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[96] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[97] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[98] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.

3.128   On 13 June 2008, Pipex records indicate that the previous MAC generation request had failed.[99] Pipex records show that another MAC was generated on 20 June 2008; "✂ *Exp date: 19-JUL-08*".[100] On 25 June 2008, Pipex records indicate that the account was "*CEASED DUE TO NON-PAYMENT*".[101]

3.129   Although Pipex supplied the first MAC to ✂ [Customer 12] within five working days, this MAC could not be used and the second MAC was eventually generated on 20 June 2008. Pipex provided ✂ [Customer 12] with an explanation as to why they could not generate a second MAC whilst the first was still valid. However, they then failed to provide the second MAC until more than a month after the date of the first MAC expiring (which occurred around 11 May 2008), despite ✂ [Customer 12] having called on 12 and 19 May 2008 (after the date that the first MAC expired) to request a MAC.

3.130   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 12] with a MAC within five working days of her request of 19 May 2008, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

✂ [Customer 13]

3.131   ✂ [Customer 13] contacted Ofcom on 30 May 2008 to complain about Pipex and its failure to provide her with a MAC. ✂ [Customer 13] was at the time a residential broadband customer of Pipex. ✂ [Customer 13] was therefore an end-user of Pipex broadband services for the purpose of GC22.

3.132   On 12 May ✂ [Customer 13] phoned Pipex to discuss her broadband service and during the course of the conversation requested a MAC. It is recorded in Pipex's CRMS that "*eu would like to cut the service*" and a separate Pipex agent added that "*mac requested cust advised upto [sic] 5 working days. Cust account says live but cust has no BB*".[102]

3.133   The following entry was made in the Pipex CRMS records on 15 May 2008 and indicates that ✂ [Customer 13] was experiencing significant technical difficulties with her broadband connection: "*still no connection and the level of help when requested is disgraceful this MUST be resolved A.S.A.P CUST DOSENT [sic] APPRECIATE BEING*

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[99] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[100] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[101] For details of the CRMS records in relation to ✂ [Customer 12] see Tab PQ of Annex 14.
[102] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15. This is taken to mean that the account was showing as live on Pipex's systems but that ✂ [Customer 13] was unable to use her broadband.

LIED TO. Pls call cust and help her…. Cust given wrong info previously re mac code and also told she dosent [sic] have bb".[103]

3.134 Pipex's CRMS records indicate that ✂ [Customer 13] contacted Pipex on 27 May 2008 to again request a MAC. The first agent advised ✂ [Customer 13] to contact the retentions team.[104] Another agent on 27 May 2008 added: "*dpa ok cust has requested around 2 macs they have both failed i have tried again and sent request to provisioning also to see why they keep failing*".[105] This indicates that a third MAC was requested for ✂ [Customer 13].

3.135 On 28 May 2008, ✂ [Customer 13] contacted Pipex because she had not received a MAC and was told that "*the mac is still in process*".[106]

3.136 On 30 May 2008, ✂ [Customer 13] contacted Pipex again as the MAC had still not been provided. It is recorded on the Pipex records that "*cust is already frustrated about the mac code she's requesting, also for her bb, no connection*".[107]

3.137 On the same day, ✂ [Customer 13] contacted Ofcom to complain and the following entry was made in Ofcom records: "*Lost bb connection on 08 May – Pipex advised this was due to an internal error. After several more calls to Pipex consumer has been unable to have bb restored. Requested a MAC code on 12 May, Pipex advised she would get it in 72 hours, 5 days and finally the MAC code has not been requested, so will request again – nothing received*". Ofcom devolved this information to Pipex to address the issue and explained the provisions of GC22 to ✂ [Customer 13].

3.138 On 5 June 2008, ✂ [Customer 13] was advised by Pipex that "*tags on line shows line suitable for broadband order*". A Pipex agent left a voice mail message advising ✂ [Customer 13] of the status of the line.[108]

3.139 Notes left on Pipex's CMRS records indicate that a MAC was requested by a Pipex agent on 12 June 2008. The record states: "*…requested mac code as per cust request. will adv cust of mac once generated, or more information to give*".[109]

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[103] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15. This final sentence is taken to mean that ✂ [Customer 13] was previously given the wrong information about the MAC process and was told that she did not have a broadband account with Pipex.
[104] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15.
[105] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15. "DPA" is taken to refer to the "Data Protection Act", indicating that the agent had confirmed that ✂ [Customer 13] was the account holder at the beginning of the conversation.
[106] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15.
[107] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15.
[108] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15. This suggests that BT's systems indicated that broadband could be ordered on ✂ [Customer 13]'s phone line and that there was not an existing broadband service on the line.

3.140   There are no further records available to indicate whether ✂ [Customer 13] did receive her MAC. However, the evidence shows that Pipex failed to provide ✂ [Customer 13] with a MAC within five working days of her request of 12 May 2008.

3.141   On the basis of the evidence supplied by Pipex, we have reasonable grounds to believe that Pipex has failed to provide ✂ [Customer 13] with a MAC within five working days of her request, either by phone or in writing, as is required by paragraphs A1.5 and A1.6 of the MAC Process under GC22.1.

Conclusions

3.142   On the basis of the evidence discussed at paragraphs 3.17 to 3.141 above, we have reasonable grounds to believe that Pipex has contravened GC22.1 by failing to comply with the provisions of the MAC Process. Specifically, Pipex has:

(a)   failed to provide some of its customers with MACs within five working days;[110] and/or

(b)   issued a cease request when the customer wanted to transfer their broadband service to another communications provider.[111]

3.143   We therefore conclude that it is appropriate to issue Pipex with a notification under section 94 of the Act in relation to its contravention of GC22.

Action required by Pipex

3.144   Pipex shall have until the deadline (i.e. 23 January 2009) to secure that its contraventions of GC22 are brought to an end, and are not repeated.

3.145   Pipex shall have until the deadline to remedy any consequences arising from its contraventions of GC22.

3.146   If Pipex does not comply with the requirements of GC22 and/or fails to remedy any consequences of its breaches of GC22 as set out in the attached section 94 notification by the deadline, we may issue an enforcement notification under section 95 of the Act and/or may impose a penalty under section 96 of the Act. The maximum penalty that may be imposed under section 96 of the Act is 10% of the turnover of the relevant business for the relevant period.

3.147   Pipex additionally has until the deadline to make representations to Ofcom about the matters set out in the section 94 notification and this accompanying Explanatory Statement.

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[109] For details of the CRMS records in relation to ✂ [Customer 13] see Annex 15. "Adv cust" is taken to mean "advise customer".
[110] As required by paragraph A1.5 in Annex 1 of GC22.
[111] In contravention of paragraph A1.13 in Annex 1 of GC22.